ARCHITECT-ENGINEER RESPONSIBILITY MANAGEMENT PROGRAM (AERMP)

We have received and analyzed the FY00 AERMP reports from all MSCs and Centers, which are required by Chapter 7 of EP 715-1-7, Architect-Engineer Contracting. The following observations are made:

- The total amount of A-E liability settlements received in FY00 was **only $140,000, the least ever reported**. The annual average recovery over the last 10 years has been about $1,500,000. It is difficult to say whether this is good news or bad news. Are we getting much higher quality work from A-E firms? Are we not paying enough attention to A-E liability? Does this reflect a reduction in our traditional A-E design work such as MILCON? Have our project budgets been cut so much that we afford to pursue A-E responsibility? In any case, we encourage you to review your AERMP to ensure that you have a regular process of reviewing design deficiencies and holding A-E's financially accountable for the quality of their work. We owe this to our customers!

- The final liability settlements negotiated with the A-E firms were about 45% of the original computed damages, which is in line with the historical average.

- Based on the data received from five districts on settled cases in FY99, about 23 cents in investigation and recovery (I&R) costs were spent for each dollar of A-E damages (excluding I&R costs) pursued. This is much greater than in FY98 and FY99, where the average I&R cost was about 5 cents per dollar of damages. This notable increase is very likely due to the small number of cases settled. Remember that reasonable I&R costs are part of the assessable damages.

- The backlog of liability cases (and associated dollars) carried over into FY01 (130 cases totaling $14,700,000, including one case of $8,733,000) is significantly less than carried over into FY00 (208 cases totaling $16,400,000) and into FY99 (265 cases totaling $21,900,000). This is an encouraging trend, since we have an important responsibility to our customers to pursue A-E liability cases in a very timely manner.

- A few districts are reporting all design deficiency modifications as A-E liability cases. An A-E liability case is only established if all three of the following conditions are present and pursuing recovery is advantageous to the Government:

  1. The A-E firm made an error or omission.

  2. The error or omission resulted from the firm's negligence or breach of contract. Negligence is the failure to meet the standard of reasonable

care, skill and diligence that one in the A-E profession would ordinarily exercise under similar circumstances. Not all errors or omissions are negligence.

3. The Government suffered damages as a result of the error or omission.

Please review the guidance in EP 715-1-7, paragraph 7-7.d through 7-7.h. A liability case is initiated when the Government sends a letter of intent to the A-E firm as defined in paragraph 7-7.h.

Based on the FY00 reports, MSCs and districts seem to be very aware of the requirements of the AERMP although actual recoveries were very low and I&R costs relatively high. We will closely examine next year's reports to see if these trends have continued and decide on any needed actions. The FY01 MSC AERMP reports are due to CECW-ETE by 30 November 2001. Districts are required to report quarterly to their MSC on the progress of each case.

POC: Don Evick, CECW-ETE, 202-761-4227.